



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/533,836

12/02/2005

Anders Jonsson

49741.8.1

6090

22859 7590 03/27/2008
INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS, MN 55402

EXAMINER

SIMONE, CATHERINE A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,836	Applicant(s) JONSSON ET AL.	
	Examiner Catherine Simone	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Repeated Rejections

1. The 35 U.S.C. 102(a) rejection of claims 1-12 as anticipated by Rasmussen is repeated for the reasons previously set forth in the previous Office Action mailed 10/3/2007, Pages 2-3, Paragraph #2.
2. The 35 U.S.C. 103(a) rejection of claims 1-12 over Jonsson in view of Rasmussen is repeated for the reasons previously set forth in the previous Office Action mailed 10/3/2007, Pages 4-5, Paragraph #3.

Response to Arguments

3. Applicant's arguments filed 1/2/2008 have been fully considered but they are not persuasive.

Applicant argues that “WO'592 does not qualify as prior art...the present application was filed in the U.S. on December 2, 2005, but claims priority to a Swedish patent application filed on November 12, 2002. Thus, the present application has an invention date of November 12, 2002. On the other hand, WO '592 has an international publication date of December 27, 2002, which is after the present application's invention date...Applicant does not believe WO '592 qualifies as prior art under any other subsection of 102”.

In response to Applicant's argument, the Examiner acknowledges that the present application claims priority to a Swedish patent application filed on November 12, 2002 and thus has an invention date of November 12, 2002. Additionally, the Examiner acknowledges that WO '592 has an international publication date of December 27, 2002, which is after the present

application's invention date. However, the filing date of the priority document (Swedish patent 023353-8) has not been perfected, since Applicant has not filed an English translation of the Swedish patent application filed on November 12, 2002. See MPEP 706.02(b). Thus, the 102(a) rejection has not been overcome. Accordingly, claims 1-12 stand rejected under 35 U.S.C. 102(a) as being anticipated by WO 02/102592 to Rasmussen.

Applicant then argues that “Jonsson and Rasmussen fail to disclose, alone or in combination, the second sheet having top thinner portions in connection with the joining areas....The Examiner also failed to establish a prima facie case of obviousness because the Examiner has not shown there to be any suggestion or motivation in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or combine reference teachings. The combination of Jonsson with Rasmussen would not guide a person skilled in the art towards the invention and there is nothing in this combination of documents that would solve the problem of material consumption by providing the joining areas with the thinner portions. In fact, Rasmussen actually teaches away from the invention”.

In response to applicant's argument that there is no suggestion to combine the references (Jonsson and Rasmussen), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Jonsson clearly teaches a corrugated product (Figures 2 and 3) comprising at least one first plane sheet (19) and at least one second sheet (16)

arranged in wave shape, wherein the first sheet is joined with the second sheet in joining areas (page 5, lines 17-20), forming a framework shape having the joining areas arranged at tops of the second sheet (16). Rasmussen was merely cited to teach a wavy shaped product having thinner portions at the tops of the wave shaped sheet. Rasmussen teaches that the thicker portions, which are located at the tops, are eliminated, *at least in part*, by embossing or stretching (col. 6, lines 2-4 and lines 12-17). Thus, the thicker portions formed at the tops are not necessarily being completely eliminated and a thinner portion is being formed within that thick portion by embossing or stretching to produce “flex-lines” for the purpose of providing a strong bond at these lines and to facilitate strong bending and flexing of the sheet. Accordingly, a thinner portion exists at the tops. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the corrugated product in Jonsson to have thinner portions at the tops of the wave shaped sheet as suggested by Rasmussen in order to produce a stronger bond and facilitate strong bending and flexing of the product. Furthermore, Jonsson and Rasmussen both teach wavy shaped products for use in packaging and therefore are analogous arts. Thus, Jonsson and Rasmussen are combinable.

In view of the foregoing, a prima facie case of obviousness has been established and the combination of Jonsson with Rasmussen would guide a person skilled in the art towards the invention. Furthermore, the combination of Jonsson with Rasmussen would solve the problem of material consumption, since the structure of the presently claimed corrugated product is being taught by the combination of Jonsson with Rasmussen. Thus, claims 1-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Jonsson in view of Rasmussen.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571) 272-1501. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Catherine Simone/
Examiner, Art Unit 1794
March 18, 2008

/KEITH D. HENDRICKS/
Supervisory Patent Examiner, Art Unit 1794